

CITY OF NORTH BEND, WASHINGTON
LIMITED TAX GENERAL OBLIGATION BOND, 2016
(REVOLVING LINE OF CREDIT)

Not to exceed \$3,500,000

ORDINANCE NO. 1593

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF A BOND TO EVIDENCE A REVOLVING LINE OF CREDIT IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$3,500,000; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF THE BOND; DELEGATING AUTHORITY TO MANAGE THE REVOLVING LINE OF CREDIT; AND APPROVING THE SALE OF SUCH BOND.

PASSED: July 19, 2016

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WHEREAS, the City Council (the “Council”) of the City of North Bend, Washington (the “City”) deems it necessary and in the best interest of the citizens of the City to undertake certain capital improvements to City facilities (the “Improvements”); and

WHEREAS, to provide financing for costs of the Improvements, the City wishes to establish a line of credit with a bank, as authorized by RCW 39.46.050; and

WHEREAS, the City is authorized by chapters 35.37 and 39.46 of the Revised Code of Washington to borrow money and issue general obligation bonds payable from regular property tax levies of the City; and

WHEREAS, the City wishes to issue a limited tax general obligation bond in the principal amount of not to exceed \$3,500,000 (the “Bond”) to evidence the revolving line of credit; and

WHEREAS, KeyBank, National Association (the “Bank”) has offered to provide such a revolving line of credit in its term sheet, a form of which is on file with City staff (the “Term Sheet”); and

WHEREAS, the Council wishes to accept the Term Sheet and authorize the issuance of the Bond to the Bank to evidence a revolving line of credit on the terms and conditions set forth in the Term Sheet and in this ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Definitions and Interpretation of Terms.

(a) *Definitions.* As used in this ordinance, the following words shall have the following meanings:

Assistant City Administrator/Finance Director means the Assistant City Administrator/Finance Director of the City, or the successor of such office.

Available Commitment means, on any date, the Maximum Facility Amount adjusted from time to time as follows: (a) downward in an amount equal to the principal amount of any Draw pursuant to the terms hereof; (b) upward in an amount equal to the principal amount of the Bond repaid by the City pursuant to the terms of Section 2(b) hereof; (c) downward to zero upon the expiration or termination of the Available Commitment in accordance with the terms hereof; provided, that, after giving effect to any of the foregoing adjustments the Available Commitment shall never exceed at any one time the Maximum Facility Amount.

Bank means KeyBank, National Association, Seattle, Washington, or any successor thereof as provided in this ordinance.

Bond means the City of North Bend, Washington, Limited Tax General Obligation Bond, 2016 (Revolving Line of Credit), as authorized to be issued pursuant to this ordinance.

Bond Counsel means Pacifica Law Group LLP or an attorney at law or a firm of attorneys, selected by the City, of nationally recognized standing in matters pertaining to the tax exempt nature of interest on bonds issued by states and their political subdivisions.

Bond Fund means the Bond Redemption Fund, 2016, created by the City pursuant to Section 5 of this ordinance.

Bond Register means the registration records for the Bond maintained by the Bond Registrar.

Bond Registrar means the Assistant City Administrator/Finance Director, whose duties include registering and authenticating the Bond, maintaining the Bond Register, transferring ownership of the Bond, and paying the principal of and interest on the Bond.

Calculation Agent means the Bank.

City means the City of North Bend, Washington, a municipal corporation duly organized and existing by virtue of the laws of the State.

City Clerk means the duly appointed and acting City Clerk of the City or the successor to the duties of that office.

Code means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bond or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bond, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

Commitment means the agreement of the Bank to provide for Draws against the Bond under the terms hereof for the account of the City.

Commitment Expiration Date means the later of (a) 5:00 p.m. eastern time on the date that is three (3) years from the Date of Issue, and (b) 5:00 p.m. eastern time on the last day of any extension of such date pursuant to Section 14, hereof, or, if such last day is not a LIBOR Business Day, the LIBOR Business Day next preceding such day.

Computation Date means, with respect to a Draw, the second London Banking Day immediately preceding each LIBOR Index Reset Date; provided that, if there are no Draws outstanding, then with respect to a new Draw, the initial Computation Date shall be the second London Banking Day immediately preceding the date of such Draw.

Council or City Council means the City Council as the general legislative authority of the City, as duly and regularly constituted from time to time.

Date of Issue means the date of issuance and delivery of the Bond to the Bank.

Default Rate means the applicable LIBOR Index Rate, plus 4.00% (400 basis points).

Designated Representative means the Assistant City Administrator/Finance Director of the City (or the successor in function to such person), other individual selected by the City Council, or his or her designee. The signature of one Designated Representative shall be sufficient to bind the City.

Draw or Draws means incremental draws on the Bond as requested by the City pursuant to the terms of this ordinance and the Bond.

Draw Date means each date on which a Draw occurs.

Effective Date means the Date of Issue subject to the satisfaction or waiver by the Bank of the conditions precedent set forth in Section 6 hereof.

Event of Default means the occurrence of any of the following:

(i) a failure to pay or prepay principal or interest on the Bond when due, as provided in this ordinance, the Bond, or failure to pay any fees when due; which in either case such failure continues, and is not cured, within five (5) Business Days after the Bank has made written demand on the City to cure such failure;

(ii) a failure by the City to comply with any of its obligations, or to perform any of its duties, under this ordinance or the Bond, which failure continues, and is not cured, for a period of more than 60 days after the Bank has made written demand on the City to cure such failure;

(iii) a material misrepresentation by the City in this ordinance or the Bond;

(iv) the City shall (a) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of the City, or of all or a substantial part of the assets of the City, (b) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (c) make a general assignment for the benefit of creditors, or (d) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against the City in any bankruptcy, reorganization or insolvency proceeding; or

(v) an order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for the

City or of all or a substantial part of the assets of the City, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days.

Fair Market Value means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment. To the extent required by the applicable regulations under the Code, the term "investment" shall include a hedge.

Federal Tax Certificate means the certificate executed by the Designated Representative setting forth the requirements of the Code for maintaining the tax exemption of interest on the Bond to be dated as of the date of Date of Issue, and attachments thereto.

Fiscal Year means the fiscal year of the City, currently, the 12-month period ending on December 31 of each year.

Improvements mean capital improvements to City facilities that are included in the capital budget of the City.

Interest Payment Date means the first LIBOR Business Day of each calendar month and the Termination Date, commencing on August 1, 2016.

LIBOR Business Day means a day on which (a) banks are not required or authorized to close in Cleveland, Ohio, and (b) dealings are carried on in the London interbank eurodollar market.

LIBOR Fixed Rate means the rate per annum determined by the Calculation Agent at which deposits in the United States dollars are offered by prime banks in the London interbank eurodollar market two LIBOR Business Days prior to the LIBOR Index Reset Date, in an amount comparable to the amount of such advance and with a maturity of one month, as reported on Reuters Screen LIBOR01 page (or any successor page) at approximately 11:00 a.m., London time, on each Computation Date (or if not so reported, then as determined by the Calculation Agent from another recognized source of interbank quotation). In the event that the LIBOR Fixed Rate or any other index that may be used to calculate interest due under the terms of this

ordinance is determined to be less than zero, such index shall be deemed to be zero for purposes of the Bond.

LIBOR Index Reset Date means the first LIBOR Business Day of each calendar month.

LIBOR Interest Rate Period means a period of one month, not to extend beyond the Commitment Expiration Date of the Bond.

LIBOR Index Rate means a per annum rate of interest established on each Computation Date equal to the LIBOR Fixed Rate plus 2.58%, multiplied by 0.6501.

Loan Draw Record means the administrative records kept by the Bank to record the date and dollar amounts of draws on the Bond and loan repayments made by the City, which records may be maintained on the Bond itself or in such other format as the Bank and the City may agree. Such Loan Draw Record maintained by the Bank shall be conclusive as to such amounts absent manifest error.

Material Adverse Effect means (a) a change in, or an effect upon, the operations, business, properties, liabilities (actual or contingent), or condition (financial or otherwise) of the City which materially impairs its ability to make payments due under the Bond; or (b) any material term of the Bond or this ordinance or any material rights, security or remedies of the Bank hereunder or thereunder shall no longer be legal, valid, binding or enforceable against the City.

Maximum Facility Amount means the maximum amount to be drawn under the Bond at any one time, which shall be \$3,500,000.

Maximum Interest Rate means the maximum rate of interest on the Bond permitted by applicable law.

Mayor means the duly elected Mayor of the City or the successor to the duties of that office.

Project Fund means the Project Fund authorized to be created pursuant to this ordinance.

Request for Draw or ***Draws*** means request for a Draw under the terms of this ordinance pursuant to a Request for Draw in the form attached hereto as Exhibit A.

State means the state of Washington.

Termination Date means the earliest of (i) the Commitment Expiration Date, as such date may be extended pursuant to Section 14, hereof, and (ii) the date the Commitment terminates by its terms in accordance with Section 15, hereof.

Term Sheet means the commitment letter or proposal submitted for the Bond to the City to purchase the Bond as approved by the Designated Representative pursuant to Section 6 of this ordinance and may include a separate agreement, at the option of and approved by the Designated Representative.

Unutilized Amount means, as of any date, an amount equal to the difference between (i) the Available Commitment and (ii) the aggregate amount outstanding of Draws made by the City pursuant to the terms hereof.

(b) *Interpretation.* In this ordinance, unless the context otherwise requires:

(1) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” means after, and the term “heretofore” means before, the date of this ordinance;

(2) Words of the masculine gender mean and include correlative words of the feminine and neuter genders, and words importing the singular number mean and include the plural number and vice versa;

(3) Words importing persons include firms, associations, partnerships (including partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(4) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal bonds appended to copies hereof, are solely for convenience of reference and do not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect;

(5) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Authorization of Bond. For the purpose of evidencing a revolving line of credit to finance the Improvements, the City shall issue its limited tax general obligation bond, in the form of a revolving draw down obligation, in the principal amount of not to exceed \$3,500,000 (the “Bond”).

(a) *Bond Details.* The Bond will be designated as the “City of North Bend, Washington, Limited Tax General Obligation Bond, 2016 (Revolving Line of Credit),” will be dated the Date of Issue, will be issued as a single instrument in fully registered form in the denomination of not to exceed \$3,500,000.

(b) *Interest Rate and Payment Terms.* From the Effective Date through the Termination Date, and upon and subject to the terms and conditions and on the basis of the representations, warranties and agreements by the City in this ordinance, the Bank will, when requested by the City pursuant to procedures for making Draws set forth in this ordinance, to make Draws from time to time (but in no event more than four (4) per calendar month) in an aggregate principal amount not to exceed the Available Commitment.

Each Draw shall (i) be pursuant to a Request for Draw, (ii) mature on the Commitment Expiration Date, and (iii) be in a minimum principal amount of \$100,000. Interest on each Draw shall be calculated on the basis of a year of 360 days of twelve 30-day months from the Draw Date. Except as otherwise provided herein upon the occurrence and continuation of an Event of

Default, the outstanding under the Bond shall bear interest at the lesser of (1) the Maximum Interest Rate and (2) the LIBOR Index Rate.

Subject to the right to cure a payment default as provided herein, the principal of, and to the extent permitted by applicable law, interest on any outstanding payments in default shall bear interest, from the date due and payable until paid, payable on demand, at a rate per annum equal to the lesser of (i) the Default Rate and (ii) Maximum Interest Rate.

The Calculation Agent shall determine the LIBOR Index Rate on each Computation Date with respect to each Draw, and such rate shall become effective on the Libor Index Reset Date next succeeding the Computation Date and interest at such rate shall accrue each day with respect to such Draw, commencing on and including the next succeeding LIBOR Index Reset Date to but excluding the immediately succeeding LIBOR Index Reset Date. The LIBOR Index Rate shall be rounded upward to the fifth decimal place. Promptly following the determination of the LIBOR Index Rate, the Calculation Agent shall give notice thereof to the City. The Calculation Agent's internal records and applicable interest rates shall be determinative in the absence of manifest error.

Accrued but unpaid interest on the Bond shall be due and payable on the each Interest Payment Date. All outstanding principal of Draws shall be due and payable on the Termination Date. Interest due and payable on the Bond shall be equal to the amount accrued to, but excluding the related payment date. If the payment date for the principal of or interest on the Bond is a day other than a LIBOR Business Day, the date for payment thereof shall be extended, without penalty, to the next succeeding LIBOR Business Day, and such extended period of time shall be included in the computation of interest; provided, however, the payment of interest on the Bond on such extended date shall have the same force and effect as if made on the original payment date.

If the Bank determines that for any reason in connection with any request to make a Draw that (a) dollar deposits are not being offered to banks in the London interbank market for the applicable amount, or (b) adequate and reasonable means do not exist for determining LIBOR, the Bank will promptly so notify the City. Thereafter, the obligation of the Bank to make or maintain Draws shall be suspended until the Bank revokes such notice. Upon receipt of such notice, (i) the City shall immediately revoke any pending request for Draws, and deliver notice to the Bank that the rate on Draws will be converted to a rate determined by the Bank, after consultation with the City, in the amount specified therein and (ii) the interest on all outstanding Draws shall be automatically converted to the interest rate set forth in such notice on the next succeeding LIBOR Index Reset Date. Upon any such conversion, the City shall also pay accrued interest on the amount so converted.

Notwithstanding anything to the contrary in this ordinance, if the corporate federal tax rate decreases for any period during which the Bond is outstanding (whether or not any lender is actually taxed at said maximum marginal statutory rate), the City shall pay an additional amount to the Bank on the amount outstanding on the Bond equal to the difference between the number equal to one minus the new corporate federal tax rate and 0.6501, multiplied by the sum of one-month LIBOR plus 2.58%.

(d) *Delegation to the Designated Representative.* The Designated Representative is hereby authorized to determine for the City the amount and the timing of Draws and repayments under the Bond, in accordance with procedures agreed to by the Bank and as set forth in this ordinance.

(e) *Renewal of the Bond.* The Bond is renewable at the request of the City Council and the consent of the Bank, which may be withheld by the Bank in its sole discretion, pursuant to Section 14 of this ordinance.

Section 3. Prepayment. The City may prepay any Draw, in whole or in part, without premium, on the LIBOR Index Reset Date provided at least three (3) LIBOR Business Days' prior written notice is given by the City to the Bank. Each such notice shall specify the date and amount of such prepayment. Each such notice of optional prepayment shall be irrevocable and shall bind the City to make such prepayment in accordance with such notice. Any prepayment of Draws shall be in a principal amount of \$20,000 or a whole multiple of \$20,000 in excess thereof or, if less, the entire principal amount thereof then outstanding under the Bond being prepaid. All prepayments of principal shall include accrued interest to the date of prepayment and all other amounts due and payable at such time pursuant to this ordinance.

If a prepayment shall occur on any date other than a LIBOR Index Reset Date, in the event the Bank shall incur any loss, cost, or expense (including any loss, cost, or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired or contracted to be acquired by the Bank to purchase or hold the Bond or the relending or reinvesting of such deposits or other funds or amounts paid or prepaid to the Bank) as a result of any redemption or conversion of the Bond on a date other than a Libor Index Reset Date for any reason, whether before or after default, and whether or not such payment is required by any provision of this ordinance, then upon the demand of the Bank, the City shall pay to the Bank a redemption or conversion premium, as applicable, in such amount as will reimburse the Bank for such loss, cost, or expense. If the Bank requests such redemption or conversion premium, as applicable, it shall provide to the City a certificate setting forth the computation of the loss, cost, or expense giving rise to the request for such redemption or conversion premium, as applicable, in reasonable detail and such certificate shall be conclusive if reasonably determined.

In the event of prepayment in whole of the Bond prior to the Termination Date, the Bond shall be deemed to remain outstanding for subsequent Draws absent a written notice to the Bank by the City that the prepaid Bond is no longer outstanding and available for further Draws hereunder.

Section 4. Registration.

(a) *Bond Registrar/Bond Register.* The Assistant City Administrator/Finance Director shall act as Bond Registrar. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the Bond if transferred or exchanged in accordance with the provisions of the Bond and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance.

(b) *Registered Ownership.* The City and the Bond Registrar may deem and treat the Registered Owner of the Bond as the absolute owner for all purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary. Payment of the Bond shall be made only as described in this ordinance. All such payments made as described in this ordinance shall be valid and shall satisfy the liability of the City upon the Bond to the extent of the amount so paid.

(c) *No Transfer or Exchange of Registered Ownership.* The Bond shall not be transferrable without the consent of the City unless (i) the Bank's corporate name is changed and the transfer is necessary to reflect such change; or (ii) the transferee is a successor in interest of the Bank by means of a corporate merger, an exchange of stock, or a sale of assets.

(d) *Place and Medium of Payment.* Both principal of and interest on the Bond shall be payable in lawful money of the United States of America. Principal and interest on the Bond shall be payable by check, warrant, ACH transfer or by other means mutually acceptable to the Bank and the City. Upon final payment of principal and interest of the Bond, the Registered Owner shall surrender the Bond for cancellation at the office of the Bond Registrar in accordance with this ordinance.

Section 5. Bond Fund; Security for the Bond. A special fund of the City known as the "Bond Redemption Fund, 2016" (the "Bond Fund") is hereby authorized to be created by the City. The Bond Fund shall be drawn upon for the sole purpose of paying the principal of and interest on the Bond. Money in the Bond Fund not needed to pay the interest or principal next coming due may temporarily be deposited in legal investments for City funds, but only to the extent that the same are acquired, valued and disposed of at Fair Market Value.

The City hereby irrevocably covenants and agrees for as long as the Bond is outstanding and unpaid that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the City subject to taxation in an amount that will be sufficient, together with other revenues and money of the City legally available for such purposes, to pay the principal of and interest on the Bond when due.

The City hereby irrevocably pledges that the annual tax provided for herein to be levied for the payment of such principal and interest shall be within and as a part of the tax levy permitted to cities without a vote of the people, and that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bond will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Bond. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the prompt payment of the principal of and interest on the Bond when due.

Section 6. Sale of the Bond and Authorization to Designated Representative. The City hereby accepts the Bank's Term Sheet, to purchase the Bond on the terms specified therein and in this ordinance. The proper officials of the City are hereby authorized and directed to do all things necessary for the prompt execution and delivery of the Bond and the items required to be delivered to the Bank under the terms of the Term Sheet and for proper use and application of

the proceeds of sale thereof. In accordance with the Term Sheet, the City will pay the Bank a loan origination fee of \$20,000.

(a) *Additional Fees to Bank.* The City shall pay or cause to be paid to the Bank on October 1, 2016, for the period commencing on the Effective Date to and including September 30, 2016, and in arrears on the first LIBOR Business Day of each January, April, July and October to occur thereafter to the Termination Date, and on the Termination Date, a nonrefundable commitment fee (the "Commitment Fee") in an amount equal to the product of (i) the daily average Unutilized Amount during the related quarterly period, and (ii) 15 basis points.

(b) *Fees, Costs and Expenses.* The City shall pay the fees and costs of Bond Counsel, and any other expenses and costs that the City incurs in connection with this ordinance and the Bond. The City shall also pay the Bank's attorney fees related to this transaction (estimated at \$6,000).

The City shall pay within thirty (30) days after demand, if an Event of Default shall have occurred, all costs and expenses of the Bank in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under the Bond and this ordinance and such other documents which may be delivered in connection therewith.

(c) *Conditions to Closing/Date of Issue.* Prior to the issuance of the Bond, the City shall provide, or cause to be provided, to the Bank the following documents:

(1) a certified copy of this ordinance and the executed and authenticated Bond;

(2) an opinion of Bond Counsel, in form acceptable to the Bank, to the effect that this ordinance and the Bond are and will be valid and legally binding obligations of the City, enforceable against the City in accordance with their terms; and

(3) the certificate of the Designated Representative to the effect that:

(i) The City is duly created and existing under the laws of the State, has all necessary power and authority to perform its duties under this ordinance and the Bond, and that this ordinance and the Bond will constitute legal, valid and binding obligations of the City which are enforceable in accordance with their terms;

(ii) there is no action, suit, proceeding or investigation at law or in equity before or by any court or government, city or body pending or, to the best of the knowledge of the City, threatened against the City to restrain or enjoin the adoption of this ordinance or the execution and delivery of the Bond, or the collection and application of funds as contemplated by the this ordinance or the Bond, which, in the reasonable judgment of the City, would have a material and adverse effect on the ability of the City to pay the amounts due under the Bond;

(iii) the adoption of this ordinance and the execution and delivery of this ordinance and the Bond do not and will not conflict in any material respect with or constitute

on the part of the City a breach of or default under any law, charter provision, court decree, administrative regulation, ordinance, ordinance or other agreement to which the City is a party or by which it is bound; and

(4) such other closing documents and opinions as may be reasonably required by the Bank.

Further, as a condition to the issuance of the Bond, the Bank, on the Date of Issue, shall provide a certificate in the form satisfactory to Bond Counsel acknowledging the following: (1) the Bond is not being registered under the Securities Act of 1933 and is not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state; (2) the Bank will hold the Bond as one single debt instrument; (3) no CUSIP numbers will be obtained for the Bond; (4) no final official statement has been prepared in connection with the private placement of the Bond; (5) the Bond will not close through The Depository Trust Company or any similar repository and will not be in book entry form; (6) the Bond shall not be rated by any rating agency; and (7) the Bond is not listed on any stock or other securities exchange.

(d) *Records.* To the extent permitted by law, the City will permit the Bank (at the expense of the Bank, unless and until an Event of Default has occurred, at which time such expenses shall be borne by the City) to examine the books and financial records (except books and financial records the examination of which by the Bank is prohibited by law or by attorney or client privilege), and make copies thereof or extracts therefrom, and to discuss the affairs, finances and accounts of the City's finances with the City's principal officials, at such reasonable times and as often as the Bank may reasonably request.

(e) *Existence.* The City (a) shall maintain its existence pursuant to the laws of the State and (b) shall not liquidate or dissolve, or sell or lease or otherwise transfer or dispose of all or any substantial part its property, assets or business, or combine, merge or consolidate with or into any other entity.

Section 7. Procedures for Draws; Disposition of Drawings Under the Bond.

(a) *Communications and Dispositions of Drawings.* Following the execution and delivery of the Bond, the Designated Representative shall notify the Bank in writing each time that a Draw is required to pay costs of the Improvements or costs of issuance of the Bond. Proceeds of Draws on the Bond shall be deposited in the Project Fund which is hereby authorized to be created by the City (the "Project Fund"). The City will use Draws, together with other money available therefor, to pay costs of the Improvements and to pay all expenses incidental thereto (including but not limited to costs of issuance of the Bond, engineering, financing, legal or any other incidental costs) and to repay any advances made on account of such costs or for redeeming the Bond.

The Assistant City Administrator/Finance Director shall invest money in the Project Fund and the subaccounts contained therein in such obligations as may now or hereafter be permitted to cities of the State by law and which will mature prior to the date on which such money shall be needed, but only to the extent that the same are acquired, valued and disposed of at Fair Market Value. Upon completion of the Improvements, Bond proceeds (including interest

earnings thereon) may be used for other capital projects of the City or shall be transferred to the Bond Fund to pay principal on the Bonds.

(b) *Procedures for Draws.* Each Draw shall be made upon the City's irrevocable notice to the Bank in the form of a Request for Draw with blanks appropriately completed. Each Request for Draw shall be signed by the Designated Representative and shall specify: (1) the Draw Date which shall be a LIBOR Business Day and shall be at least three (3) LIBOR Business Days after the date of the Request for Draw; and (2) the principal amount of the Draw, which shall not exceed the Available Commitment as of the proposed Draw Date. Each Request for Draw must be received by the Bank not later than 12:00 noon eastern time three LIBOR Business Days immediately prior to the requested Draw Date.

The obligation of the Bank to consummate the Draw (other than the initial Draw) is subject to the satisfaction of the following conditions precedent on the Draw Date:

(i) the representations of the City set forth in Section 6 of this ordinance shall be true and correct in all material respects on and as of such Draw Date, and shall be deemed to have been made on such Draw Date;

(ii) no Event of Default shall have occurred and be continuing on such Draw Date and no Material Adverse Effect has occurred and be continuing;

(iii) after giving effect to such Draw, the aggregate principal amount of all Draws shall not exceed the Available Commitment;

(iv) there shall not have occurred and be continuing any default by the City under any agreement with the City for borrowing money, lease financing of property or provision of credit with the owner of the Bond or an affiliate of the owner of the Bond;

(v) there shall not have occurred and be continuing any default under any agreement for borrowing money, lease financing of property or provision of credit other than with the owner of the Bond or an affiliate of the owner of the Bond under which the City is an obligor where there is outstanding, owing or committed an aggregate amount in excess of \$250,000; and

(vi) the Bank shall have received a Request for Draw as required under, and in strict conformity with, this section.

Upon receipt of a Request for Draw by the Bank, the Bank, subject to the terms and conditions of this ordinance, shall be required to consummate the Draw by 3:00 p.m. eastern time on the proposed Draw Date for the account of the City in an amount equal to the amount of the requested Draw. Notwithstanding the foregoing, in the event such Request for Draw is received by the Bank after 12:00 noon eastern time on the LIBOR Business Day which is three (3) LIBOR Business Days immediately prior to the day of the proposed Draw, the Bank shall be required to consummate the related Draw by 3:00 p.m. eastern time on the fourth LIBOR Business Day after receipt of the related Request for Draw. The Bank shall determine the applicable LIBOR Index Rate with respect to any Draw two LIBOR Business Days prior to the related Draw Date.

Section 8. Form of Bond. The Bond will be in substantially the following form:

UNITED STATES OF AMERICA

NO. N-1

Not to exceed \$3,500,000
(or as much thereof as is
shown on the attached
Loan Draw Record)

STATE OF WASHINGTON

CITY OF NORTH BEND
LIMITED TAX GENERAL OBLIGATION BOND, 2016
(REVOLVING LINE OF CREDIT)

INTEREST RATE: Variable, as provided in the Bond Ordinance
MATURITY DATE: _____, 2018
REGISTERED OWNER: KEYBANK, NATIONAL ASSOCIATION
 WA-31-13-2548
 1301 5th Avenue
 Seattle, WA 98101
TAX IDENTIFICATION #: _____
PRINCIPAL AMOUNT: NOT TO EXCEED THREE MILLION FIVE HUNDRED
 THOUSAND DOLLARS (or as much thereof as is shown on the
 Loan Draw Record)

The City of North Bend, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the "City"), hereby acknowledges itself to owe and for value received, promises to pay to the Registered Owner identified above, or registered assigns, an amount equal to the total outstanding incremental loan draws (the "Draws") made in accordance with the terms of this bond and the hereinafter defined Bond Ordinance.

This bond is issued pursuant to Ordinance No. _____ of the City Council, adopted on July 19, 2016 (the "Bond Ordinance"), to finance the costs of capital improvements to City facilities. Capitalized terms appearing on this bond and not otherwise defined herein have the meanings given those terms in the Bond Ordinance.

Reference is made to the Bond Ordinance for other covenants and declarations of the City and other terms and conditions upon which this bond has been issued, which terms and conditions are made a part hereof by this reference.

The City irrevocably and unconditionally covenants to the holder of this bond that it will keep and perform all of the covenants of this bond and the Bond Ordinance.

This bond and the Bond Ordinance may not be revised, amended or rescinded without the prior written consent of the owner of this bond.

The City may request Draws upon this bond in any amount on any LIBOR Business Day during the term of this bond subject to the terms of the Bond Ordinance. The terms of the Bond Ordinance are hereby incorporated by reference. No Draw may exceed the total amount of the costs to be paid from such Draw, and the proceeds of each Draw shall be used immediately to pay those costs, or to reimburse the City for such costs paid by the City. **The aggregate principal amount of outstanding Draws on this bond at any one time shall not exceed \$3,500,000.**

Both principal of and interest on this bond are payable in lawful money of the United States of America. Upon the final payment of principal and interest of this bond, the Registered Owner shall present and surrender this bond to the Assistant City Administrator/Finance Director of the City, as "Bond Registrar".

Draws on this bond shall bear interest at the LIBOR Index Rate as defined and in accordance with the additional terms as set forth in the Bond Ordinance. Interest on each Draw shall accrue from the date of that Draw and shall be computed in accordance and paid in accordance with the terms of the Bond Ordinance. Principal of this bond, together with all accrued and unpaid interest thereon, shall be payable on the Commitment Expiration Date, as defined in the Bond Ordinance (the "Maturity Date"), if not sooner paid.

If this bond is not paid when properly presented at the Maturity Date, the City shall be obligated to pay interest on this bond at the applicable rate of interest thereon from and after the Maturity Date until both principal and interest are paid in full.

The City has reserved the right and option to prepay this bond, in whole or in part, at any time prior to the Maturity Date as provided in the Bond Ordinance.

This bond is a general obligation of the City. The City hereby irrevocably covenants and agrees with the owner of this bond that it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to the City without a vote of the electorate, upon all the property subject to taxation in amounts sufficient, together with other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

This bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and ordinances of the City, including the Bond Ordinance.

This bond is not transferable, except in whole to a Financial Institution.

This bond has not been designated as a “qualified tax-exempt obligation” for investment by financial institutions under Section 265(b) of the Internal Revenue Code of 1986, as amended.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar or its duly designated agent.

This bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and ordinances duly adopted by the City Council including the Bond Ordinance.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist and to have happened, been done and performed precedent to and in the issuance of this bond exist and have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, the City of North Bend, Washington, has caused this bond to be executed by the manual or facsimile signatures of the Mayor and the City Clerk and the seal of the City imprinted, impressed or otherwise reproduced hereon as of this ____ day of _____, 2016.

[SEAL]

CITY OF NORTH BEND, WASHINGTON

By /s/ manual or facsimile
Mayor

ATTEST:

 /s/ manual or facsimile
City Clerk

REGISTRATION CERTIFICATE

This bond is registered in the name of the Registered Owner on the books of the City, in the office of the Bond Registrar, as to both principal and interest, as noted in the registration blank below. All payments of principal of and interest on this bond shall be made by the City from the Bond Fund.

Date of Registration	Name and Address of Registered Owner	Signature of Bond Registrar
_____, 2016	KeyBank, National Association WA-31-13-2548 1301 5th Avenue Seattle, WA 98101	_____ Assistant City Administrator/Finance Director

The Loan Draw Record shall be substantially in the following form:

CITY OF NORTH BEND, WASHINGTON
LIMITED TAX GENERAL OBLIGATION BOND, 2016 (REVOLVING LINE OF CREDIT)

LOAN DRAW RECORD

	Date	Amount	Total
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
Repayment	_____	_____	_____

Section 9. Execution of Bond. The Bond shall be executed on behalf of the City with the manual or facsimile signature of the Mayor, and shall be attested by the manual or facsimile signature of the Clerk.

Only such Bond as shall bear thereon a Certificate of Authentication in the form earlier recited, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bond shall cease to be an officer or officers of the City before the Bond so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Bond may also be signed and attested on behalf of the City by such persons who at the date of the actual execution of the Bond, are the proper officers of the City, although at the original date of such Bond any such person shall not have been such officer of the City.

Section 10. Tax Covenants. The City shall take all actions necessary to assure the exclusion of interest on the Bond from the gross income of the owners of the Bond to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Bond, including but not limited to the following:

(a) *Private Activity Bond Limitation.* The City shall assure that the proceeds of the Bond are not so used as to cause the Bond to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(b) *Limitations on Disposition of Improvements.* The City shall not sell or otherwise transfer or dispose of (i) any personal property components of the Improvements other than in the ordinary course of an established government program under Treasury Regulation 1.141-2(d)(4) or (ii) any real property components of the Improvements, unless it has received an opinion of nationally recognized bond counsel to the effect that such disposition shall not adversely affect the treatment of interest on the Bond as excludable from gross income for federal income tax purposes.

(c) *Federal Guarantee Prohibition.* The City shall not take any action or permit or suffer any action to be taken if the result of such action would be to cause the Bond to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(d) *Rebate Requirement.* The City shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bond.

(e) *No Arbitrage.* The City shall not take, or permit or suffer to be taken, any action with respect to the proceeds of the Bond which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bond would have caused the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code.

(f) *Registration Covenant.* The City shall maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code until all Bond have been surrendered and canceled.

(g) *Record Retention.* The City shall retain its records of all accounting and monitoring it carries out with respect to the Bond for at least three years after the Bond mature or are redeemed (whichever is earlier); however, if the Bond are redeemed and refunded, the City shall retain its records of accounting and monitoring at least three years after the earlier of the maturity or redemption of the obligations that refunded the Bond.

(h) *Compliance with Federal Tax Certificate.* The City shall comply with the provisions of the Federal Tax Certificate with respect to the Bond, which are incorporated herein as if fully set forth herein. The covenants of this Section shall survive payment in full or defeasance of the Bond.

Section 11. No Undertaking to Provide Ongoing Disclosure. The City is exempt from the ongoing disclosure requirements of Securities and Exchange Council Rule 15c2-12 by reason

of the exemption set forth in subsection (d)(i) of that rule with respect to the issuance of securities in authorized denominations of \$100,000 or more.

Section 12. Financial Reporting. The City covenants and agrees, for so long as the Bond is outstanding, to provide the Bank within 270 days after the end of each Fiscal Year, financial statements as of the end of that fiscal year audited by the office of the Washington State Auditor; provided, however, that if the audit is not yet completed, such audit shall be delivered within 10 days of receipt thereof; and each annual budget of the City promptly after City's adoption thereof. The City further covenants and agrees to promptly provide Bank with other information as may reasonably be requested.

Section 13. Lost, Stolen or Destroyed Bond. In case the Bond shall be lost, stolen or destroyed, the City may execute and the Bond Registrar may deliver a new Bond of like date and tenor to the Bank and upon its filing with the Bond Registrar evidence satisfactory to said Bond Registrar that the Bond was actually lost, stolen or destroyed, and upon furnishing the Bond Registrar with indemnity satisfactory to the Bond Registrar.

Section 14. Extension of Maturity Date. In the event that the Bank and the City wish to extend the Commitment Expiration Date, on or before the date one hundred twenty (120) days prior to the then current Commitment Expiration Date, the City may provide written notice to the Bank, in the form of Exhibit B hereto, of its desire to extend the Commitment Expiration Date and requesting the Bank to continue to hold the Bond and make Draws hereunder. Such written notice shall include internally prepared full-year financial statements from the City for the Fiscal Year just ended unless such requirement is waived by the Bank in writing. The Bank will make reasonable efforts to respond to such request within thirty (30) days after receipt of all information necessary, in the Bank's reasonable judgment, to permit the Bank to make an informed credit decision. The Bank may, in its sole and absolute discretion, decide to accept or reject any such request and no consent shall become effective unless the Bank shall have consented thereto in writing. In the event the Bank fails to definitively respond to such request within such thirty (30) day period, the Bank shall be deemed to have refused to grant such request. Upon the Bank's written acceptance of such request, the Bank and the City may extend the Commitment Expiration Date by delivering a notice (an "*Extension Notice*") in the form of Exhibit B properly completed and executed by the City and the Bank to the Bond Registrar not less than twenty (20) days prior to the date on which such extension is to be effective, as specified in such notice. The consent of the Bank, if granted, shall be conditioned upon the preparation, execution and delivery of documentation and opinions in form and substance satisfactory to the Bank. By providing notice to the Bank in the form of Exhibit B hereto, the City shall be deemed to represent that (a) no Event of Default has occurred and is continuing, (b) no event has occurred and is continuing that is reasonably likely to result in a Material Adverse Effect and (c) all representations of the City made in this ordinance, including closing certificates referenced herein, are true and correct and are deemed to be made as of the date of such request. Any extension shall be for a minimum of one year and a maximum of two years.

Notwithstanding anything to the contrary in this Section 14, any extension of the Commitment Expiration Date shall require the approval of Council, which may be in the form of a new ordinance or may be in the form of an amendatory ordinance approving a terms and conditions for such extension.

Section 15. Events of Default and Remedies. This ordinance shall constitute a contract and shall be enforceable by the Bank as a contract under the laws of the State. The Bond shall not be subject to acceleration.

If an Event of Default is continuing in excess of ninety (90) days, the Bank may increase the interest rate on all outstanding principal on the Bond to the lesser of (i) the Default Rate and (ii) the Maximum Interest Rate by notice to the City, until the payment default has been cured. In the Event of Default, the Bank shall be under no obligation to provide any further Draws on the Bond, absent written agreement by the Bank to resume such Draws. In addition, in the Event of Default, the Bank may terminate the Commitment and shall be under no obligation to provide any further Draws on the Bond.

Section 16. Notices. All written notices to be given under this ordinance shall be given by first class mail, overnight courier or personal delivery to the party entitled thereto at its address set forth below. Notice shall be effective either (a) 48 hours after deposit in the United States of America first class mail or overnight courier, postage or charges prepaid, or (b) in the case of personal delivery to any person, upon actual receipt, or (c) in the case of electronic delivery, upon receipt of confirmation of delivery to the recipient.

Section 17. Patriot Act Notice. The City agrees upon a written notice from the Bank that pursuant to the requirements of the Patriot Act that the Bank is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Bank to identify the City in accordance with the Patriot Act, that the City shall promptly provide such information to the Bank.

Section 18. Waiver of Jury Trial. THE CITY, UPON RELIANCE THAT THE BANK HAS OR WILL COVENANT TO WAIVE THE SAME, HEREBY AGREES TO WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN THE BANK AND THE CITY ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS ORDINANCE, THE BOND OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED THERETO.

Section 19. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond.

Section 20. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19th DAY OF JULY, 2016.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Ken Hearing, Mayor

Pacifica Law Group LLP, Bond Counsel

ATTEST/AUTHENTICATED:

Published: July 27, 2016
Effective: August 1, 2016

Susie Oppedal, City Clerk

Exhibit A

Form of Request for Draw

[Date]

KeyBank National Association
Paul Kazmierczak
Service Officer II
4900 Tiedeman Road
Brooklyn, Ohio 44144
216-813-4828
Fax Number: 216-370-5997
Email: KAS_Servicing@keybank.com

Ladies and Gentlemen:

The undersigned, **[Insert Name of Undersigned]** the _____ of the City of North Bend, Washington (the “City”), under that Ordinance No. _____ (the “Ordinance”) hereby gives notice irrevocably, pursuant to Section 7 of the Ordinance, of the Draw specified below. Capitalized terms used herein have the meanings set forth in the Ordinance.

1. The LIBOR Business Day of the proposed Draw is _____, 20__ (the “Draw Date”).
2. The principal amount of the proposed Draw is \$_____.
3. Wire transfer to:

Bank Name: _____
ABA Routing No. _____
Credit to: City of North Bend
Account No.: _____
Notify: _____ [person contact]
() ____-____
Reference: City of North Bend

3. The undersigned, hereby certifies that the following statements are true on the date hereof, and will be true on the Draw Date, before and after giving effect thereto.

(a) the representations of the City set forth the Ordinance (including those incorporated by reference) are true and correct in all material respects on and as of the date hereof, and shall be deemed to have been made on the date hereof;

(b) no Event of Default or Material Adverse Change has occurred and is continuing on the date hereof, or would result from the proposed Draw or from the application of the proceeds thereof;

(c) the proposed Draw will not violate any order, judgment or decree of any court or authority of competent jurisdiction entered against the City or any provision of law as then in effect as it affects the City;

(d) after giving effect to the proposed Draw, the aggregate principal amount of all Draws will not exceed the Maximum Facility Amount (\$3,500,000);

(e) no default has occurred and is continuing on the date hereof by the City under any agreement with the City for borrowing money, lease financing of property or provision of credit with the owner of the Bond or an affiliate of the owner of the Bond; and

(f) no default has occurred and is continuing on the date hereof by the City under any agreement for borrowing money, lease financing of property or provision of credit other than with the owner of the Bond or an affiliate of the owner of the Bond under which the City is an obligor where there is outstanding, owing or committed an aggregate amount in excess of \$250,000.

CITY OF NORTH BEND

By: _____
Name: _____
Title: _____

Exhibit B

Form of Request for Extension

[Date]

KeyBank National Association
Paul Kazmierczak, Service Officer II
4900 Tiedeman Road
Brooklyn, Ohio 44144
Fax Number: 216-370-5997

Ladies and Gentlemen:

The undersigned, **[Insert Name of Undersigned]** the **[Insert Title of Undersigned]** of the City of North Bend, Washington (the "*City*"), refers to Ordinance No. _____, the terms defined therein being used herein as therein defined, and pursuant to Section 14 of the Ordinance requests the Bank to extend the Commitment Expiration Date under the Ordinance to _____, 20___. City understands that any such extension shall only be effective if Bank signs the Agreement to Extend set forth below.

CITY OF NORTH BEND

By: _____
Name: _____
Title: _____

AGREEMENT TO EXTEND

KeyBank National Association hereby agrees to extend the Commitment Date to the date set forth above.

Date: _____

KEYBANK NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

CERTIFICATE

I, the undersigned, City Clerk of the City Council of the City of North Bend, Washington (the "City"), DO HEREBY CERTIFY:

1. The attached copy of Ordinance No. 1593 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on July 19, 2016, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five (5) days after its adoption and publication as provided by law; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July, 2016.

Susie Oppedal, City Clerk